

1982 WL 189440 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

September 24, 1982

*1 The Honorable John C. Lindsay
Senator
District No. 9
Box 250
Bennettsville, South Carolina 29512

Dear Senator Lindsay:

This is in response to your telephone inquiry of this morning regarding the question of whether the dual office holding provisions of the South Carolina Constitution prohibit a deputy sheriff from also serving as a member of a county school board.

It is provided in [Article XVII, § 1A of the South Carolina Constitution](#) that ‘. . . no person shall hold two offices of honor or profit at the same time.’ For this provision to be contravened, a person concurrently must hold two public offices which have duties involving an exercise of some portion of the sovereign power of the State. [Sanders v. Belue, 78 S.C. 171 \(1907\)](#). Other relevant considerations are whether statutes, or other such authority, establish the position, prescribe its tenure, duties or salary, or require qualifications or an oath for the position. [State v. Crenshaw, 266 S.E.2d 61 \(1980\)](#).

For many years this Office has expressed the opinion that members of county school boards hold offices within the meaning of the dual office holding provisions. See, 1972 Op. Atty. Gen., No. 3273, and 1976 Op. Atty. Gen., No. 4293. These are elected offices and the determination has been made that the duties thereof involve an exercise of the sovereign power of the State.

Similarly, this Office has concluded that deputy sheriffs are office holders in the constitutional sense. See, 1975 Op. Atty. Gen., No. 3997; Opinion dated March 6, 1979 to Harry Davis, and opinion dated February 23, 1979, to Sheriff Metts (copies enclosed). Mr. McLeod's opinion of March 17, 1975, expresses some doubt as to whether policemen are officeholders, but this question has since been resolved in the case of [State v. Crenshaw, supra](#). That case held that policemen as well as police chiefs are officeholders, a situation analogous to the one presented here. Furthermore, deputy sheriffs are given the authority pursuant to § 23-13-50 to perform all of the duties appertaining to the office of sheriff.

Based on the foregoing, it is the opinion of this Office that it would be a violation of the dual office holding provisions of the South Carolina Constitution for a person to serve concurrently as a deputy sheriff and a member of a county school board.

Very truly yours,

Helen T. Zeigler
Assistant Attorney General

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